

**ORDER OF COMMISSION**

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Objection filed by the Bridge, Structural and Ornamental Iron Workers, Local Union No. 10, on April 4, 2005, to Annual Wage Order No. 12, pertaining to the building construction prevailing wage rate for the occupational title of Iron Workers in Section 071, Morgan County (Objection No. 007); issued by the Division of Labor Standards, Department of Labor and Industrial Relations, filed with the Secretary of State: March 9, 2005.

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**I. Introduction**

On April 4, 2005, the Bridge, Structural and Ornamental Iron Workers, Local Union No. 10 (the "Objector"), filed an objection to the Labor and Industrial Relations Commission (the "Commission") to Annual Wage Order No. 12 concerning the building construction prevailing wage rate applicable to the occupational title of Iron Workers in Morgan County, Missouri.

Pursuant to 8 CSR 20-5.010(3)(A), the Commission held a pre-hearing concerning this matter on May 4, 2005. A Pre-hearing Order was issued on May 6, 2005. As indicated in that order, the Objector and the Division of Labor Standards (the "Division") submitted the following pre-filed evidence:

For the Division:

The prepared testimony, with accompanying attachments, of James J. Boeckman, Assistant Director of the Division.

For the Objector:

The prepared testimony, with accompanying attachments, of David Coleman, business representative for the Objector.

On May 16, 2005, the Commission convened and concluded a hearing in connection with this objection. James J. Boeckman was present and testified for the Division. Michael Pritchett, Assistant Attorney General, represented the Division. David Coleman was present and testified for the Objector. Martin W. Walter represented the Objector. There was no intervenor in this matter.

The parties offered their pre-filed evidence as exhibits during this hearing. Neither party objected. The Commission received such evidence into the hearing record along with additional testimony from both parties.

**II. Issue Presented**

What is the building construction prevailing wage rate applicable to the occupational title of Iron Workers in Morgan County, Missouri?

**III. Findings of Fact**

The Division issued its building construction prevailing wage rate for Morgan County based on the information that had been submitted to it as of the time it issued an initial determination on March 9, 2005. As of that time, the best information available (a Contractor's Report of Construction Wage Rates from Septagon Construction Co. Inc.) indicated that the greatest number of hours worked in Morgan County during 2004 by Iron Workers (a total of 55.5 hours) was performed at the rate of \$17.00 per hour, with no additional amounts for fringe benefits.

The Objector's evidence reveals that certain Iron Worker hours reported during 2004 by Sircal Contracting, Inc. ("Sircal") from its job at the Morgan County Library, a public works project, were improperly classified and reported as Carpenter work. The Objector filed a complaint pertaining to this misclassification with the Division.

As of the time of the Commission's hearing, the Division indicated that it had investigated the Objector's complaint. Its investigation confirmed that Sircal had incorrectly classified and reported 325 regular hours (and an additional 16 hours of overtime) of Iron Worker duties performed during 2004 in Morgan County as Carpenter hours. Sircal has agreed that the rate at which these Iron Worker hours should have been paid (and for which it has agreed to provide restitution) is \$21.50 per hour plus additional fringe benefits of \$15.08 per hour.

#### **IV. Conclusions of Law**

Section 290.262.1, RSMo 2000, provides in part as follows: "In determining prevailing rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and the rates that are paid generally within the locality . . . ." The Commission has interpreted this statute to mean that the prevailing wage rate for a given occupational title is the actual wage most frequently paid in a locality. The court has given its blessing to this interpretation. *Branson R-IV School District v. Labor and Industrial Relations Commission*, 888 S.W.2d 717, 723-724 (Mo. App. S.D. 1994).

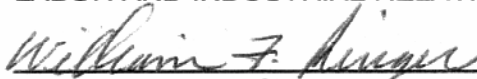
In the case before us, the evidence shows that the greatest number of Iron Worker hours expended in Morgan County in 2004 were at the rate of \$21.50 per hour plus additional fringe benefits of \$15.08 per hour. Consequently, such hourly and fringe benefit rate should be considered the prevailing rate for Morgan County.

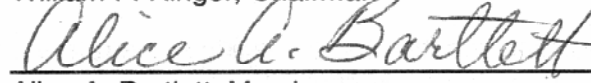
#### **V. Decision**

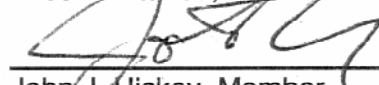
The Commission sustains the Objector's objection. The prevailing wage rate for the occupational title of Iron Worker in Morgan County, Missouri, is the basic hourly rate of \$21.50 per hour plus fringe benefits totaling an additional \$15.08 per hour.

Given at Jefferson City, State of Missouri, this 18th day of May 2005.

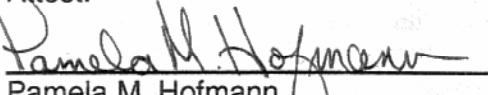
LABOR AND INDUSTRIAL RELATIONS COMMISSION

  
William F. Ringer, Chairman

  
Alice A. Bartlett, Member

  
John J. Hickey, Member

Attest:

  
Pamela M. Hofmann  
Secretary